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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	Case No. 3:05-cv-267-JKS
)	
Plaintiff,)	<u>AFFIDAVIT OF COUNSEL IN</u>
v.)	<u>SUPPORT OF APPLICATION FOR</u>
)	<u>ENTRY OF DEFAULT</u>
\$93,000.00 IN UNITED STATES)	
CURRENCY, \$6,324.40 HELD IN)	
WELLS FARGO BANK ACCOUNT)	
NUMBER 1013062045, \$3,413.63)	
HELD IN ENSTAR NATURAL GAS)	
COMPANY ACCOUNT NUMBER)	
5870158, AND \$507.52 HELD IN)	
FIRST NATIONAL BANK ALASKA)	
ACCOUNT NUMBER 70127683,)	
)	
Defendants.)	
)	
STATE OF ALASKA)	
)ss.	
THIRD JUDICIAL DISTRICT)	

JAMES BARKELEY, being duly sworn under oath, deposes and states as follows:

That I am an Assistant U.S. Attorney for the District of Alaska, duly authorized

to act as an attorney for the plaintiff herein.

2. That notice of this judicial forfeiture action was published in the *Frontiersman* on February 21, 28, and March 7, 2006. Dockets 17 and 18.

3. That on November 14, 2005, William P. Bryson (now deceased), counsel for claimants Michael L. Hamilton and John R. Shook, was served with copies of the Verified Complaint for Forfeiture, the Request for Judicial Issuance of In Rem Warrant of Arrest, and proposed In Rem Warrant of Arrest via U.S. Mail.

4. That on December 14, 2005, Mr. Bryson filed an Entry of Appearance and Notice of Claim on behalf of claimant Hamilton. Dockets 5 and 7.

5. That on December 14, 2005, Mr. Bryson filed an Entry of Appearance and Notice of Claim on behalf of claimant Shook. Dockets 4 and 6.

6. That the deadline for claimants' answers was January 3, 2006, or 20 days after their Notices of Claim of December 14, 2005.

7. That no answer has been served or filed by claimants.

8. That claimants' counsel, Bryson, died on January 10, 2006.

9. That in a conscious effort to be fair to claimants, this office then contacted the trustee counsel for Mr. Bryson, even though Mr. Bryson had missed the deadline to file claimants' answers prior to his death.

10. That on January 31, 2006, trustee counsel for claimants, Charles A. Dunnagan, was served with notice of this forfeiture action via Certified U.S. Mail, Return Receipt

Requested. Exhibit 1 (Hamilton); Exhibit 2 (Shook); Exhibit 3, Letter from Charles Dunnagan.

11. That on April 28, 2006, DEA Special Agent Kenneth Solek personally served claimant Hamilton with the notice of this forfeiture action via personal delivery at 450 E. Railroad in Wasilla. Exhibit 4.

12. That several attempts were made to personally serve claimant Shook with the notice of this forfeiture action by the United States Marshals Service and this office, but all were unsuccessful. See Docket 19¹; Docket 20²; Exhibit 5³.

13. That on April 28, 2006, DEA Special Agent Kenneth Solek attempted personal service of the notice of this forfeiture action via personal delivery on claimant Shook at 9345 Sun Valley Drive in Palmer, but claimant Shook refused to open the door and accept service. Exhibit 6.

14. That to the best of my information and knowledge, neither claimant is an infant nor incompetent person, and neither claimant is in the military service within the purview of

¹Notice was sent by the U.S. Marshals Service via Certified U.S. Mail, Return Receipt Requested, to claimant Shook at 9345 Sun Valley Drive, Wasilla, AK 99654, but it was returned as undeliverable on February 19, 2006.

²Notice was sent by the U.S. Marshals Service via Certified U.S. Mail, Return Receipt Requested, to claimant Shook at 9345 Sun Valley Drive, Wasilla, AK 99567, but it was returned as undeliverable on February 19, 2006.

³Notice was sent by this office via Certified U.S. Mail, Return Receipt Requested, to claimant Shook at P.O. Box 520651, Big Lake, AK 99652-0651, but it was returned as unclaimed on April 18, 2006.

the Soldiers' and Sailors' Relief Act of 1940, as amended.

15. That more than 20 days have elapsed since the claimants filed their Notices of Claim, and no answer has been served or filed, and the time for doing so has now fully elapsed, and therefore the claimants are now in default.

16. That more than 30 days have elapsed since the date of final publication of notice of this forfeiture action, and no claim or answer has been served or filed by any other person or entity, and the time for doing so has now fully elapsed, and therefore, all persons and entities claiming an interest in the defendant property are now in default.

EXECUTED this 12th day of May, 2006 in Anchorage, Alaska.



JAMES BARKELEY
Assistant U.S. Attorney

SUBSCRIBED AND SWORN TO before me on this 12th day of May, 2006 in Anchorage, Alaska.

